

Title 10: Education Institutions and Agencies

Part 101: Mississippi Authority for Educational Television

Part 101 Chapter 1: Authority and Board

Rule 1.1 *Authorization*. The Mississippi Authority for Educational Television shall be authorized by the Mississippi Legislature. The Mississippi Authority for Educational Television, as an agent of state government shall have the responsibility for the administration, operation, and control of educational television and radio in Mississippi. It shall serve the public interest by providing educational and instructional, professional growth, and public service programs for students and citizens of Mississippi.

Source: *Miss. Code Ann.* § 37-63-1 (1990)

Rule 1.2 *Authority*. The Mississippi Authority for Educational Television Board of Directors shall consist of the State Superintendent of Public Education, or his designee, and six (6) members appointed, with the advice and consent of the Senate. The Governor shall appoint four (4) members, one (1) of whom shall be actively engaged as a teacher or principal in a secondary school system in the State of Mississippi and one (1) of whom shall be actively engaged as a teacher or principal in an elementary school system in the State of Mississippi. The State Board for Community and Junior Colleges shall appoint one (1) member, and the Board of Trustees of the State Institutions of Higher Learning shall appoint one (1) member.

Source: *Miss. Code Ann.* § 37-63-3 (1994)

Rule 1.3 *Terms of the Board*. Beginning July 1, 1995, the appointee actively engaged as a teacher or principal in a secondary school shall be appointed for an initial term of three (3) years. The member actively engaged as a teacher or principal in an elementary school shall be appointed for an initial term of four (4) years. The remaining two (2) gubernatorial appointees shall serve until July 1, 1996. Beginning July 1, 1996, the Governor shall appoint two (2) members for initial terms of three (3) and four (4) years, with the Governor specifically designating which member shall be appointed for three (3) years and which shall be appointed for four (4) years. After the expiration of the initial terms, all members shall serve for terms of four (4) years. An appointment to fill a vacancy among the gubernatorial appointees, other than by expiration of a term of office, shall be made by the Governor for the balance of the unexpired term.

Source: *Miss. Code Ann.* § 37-63-4 (1994)

Part 101 Chapter 2: Oral Proceedings

Rule 2.1 *Purpose of Chapter*. All oral proceedings held for the purpose of providing the public with an opportunity to make oral presentations or written input on proposed new rules, amendments to rules, and proposed repeal of existing rules before Mississippi Public

Broadcasting pursuant to the Administrative Procedures Act shall be conducted according to the rules set forth herein this chapter.

Source: *Miss. Code Ann.* § 25-43-3.104 or §25-43-3.104(2)(d)

Rule 2.2 *Request for Oral Proceeding.* Political subdivisions, agencies, or citizens who request an oral proceeding in regards to a proposed rule adoption must submit a printed, typewritten, or legibly handwritten request in accordance with the following:

- A. Each request must be submitted on 8 ½" x 11" white paper.
- B. The request may be in the form of a letter addressed to Mississippi Public Broadcasting or in the form of a pleading as if filed with a court.
- C. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
- D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.

Source: *Miss. Code Ann.* § 25-43-3.104(2)(a)

Rule 2.3 *Notice of Oral Proceeding.* Notice of the date, time, and place of all oral proceedings shall be filed with the Secretary of State's Office for publication in the Administrative Bulletin. The agency providing the notice shall provide notice of oral proceedings to each requestor. The oral proceedings will be scheduled no earlier than twenty (20) days from the filing of the notice with the Secretary of State. The Agency Head, or designee who is familiar with the substance of the proposed rule, shall preside at the oral proceeding on a proposed rule.

Source: *Miss. Code Ann.* § 25-43-3.104(2)(b)

Rule 2.4 *Public Participation Guidelines.* Public participation shall be permitted at oral proceedings in accordance with the following:

- A. At an oral proceeding on a proposed rule, persons may make statements and present documentary and physical submissions concerning the proposed rule.
- B. Persons wishing to make oral presentations at such a proceeding shall notify Mississippi Public Broadcasting at least three business days prior to the proceeding and indicate the general subject of their presentations. The presiding officer in his or her discretion may allow individuals to participate that have not contacted the Mississippi Public Broadcasting prior to the proceeding.
- C. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer.
- D. The presiding officer may place time limitations on individual presentations when necessary to assure the orderly and expeditious conduct of the oral proceeding. To encourage joint presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the

- views of other individuals as well as their own views.
- E. Persons making presentations are encouraged to avoid restating matters that have already been submitted in writing. Written materials may, however, be submitted at the oral proceeding.
 - F. Where time permits and to facilitate the exchange of information, the presiding officer may open the floor to questions or general discussion. The presiding officer may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding. No participant shall be required to answer any question.

Source: *Miss. Code Ann.* § 25-43-3.104(2)(d)

Rule 2.5 *Submissions and Records.* Physical and Documentary Submissions presented by participants in an oral proceeding shall be submitted to the presiding officer. Such submissions become the property of Mississippi Public Broadcasting, part of the rulemaking record, and are subject to Mississippi Public Broadcasting's public records request procedure. Mississippi Public Broadcasting may record oral proceedings by stenographic or electronic means.

Source: *Miss. Code Ann.* § 25-43-3.104(1)

Part 101 Chapter 3: Declaratory Opinions

Rule 3.1 *Purpose of Chapter.* Mississippi Public Broadcasting's rules governing the form, content, and filing of requests for declaratory opinions, the procedural rights of persons in relation to the written requests, and Mississippi Public Broadcasting's procedures regarding the disposition of requests as required by Mississippi Code § 25-43-2.103 are stated herein this chapter.

Source: *Miss. Code Ann.* § 25-43-2.103

Rule 3.2 *Scope of Declaratory Opinions.* Mississippi Public Broadcasting will issue declaratory opinions regarding the applicability to specified facts of:

- A. A statute administered or enforceable by Mississippi Public Broadcasting.
- B. A rule promulgated by Mississippi Public Broadcasting.
- C. An order issued by Mississippi Public Broadcasting.

Source: *Miss. Code Ann.* § 25-43-2.103(3)

Rule 3.3 *Scope of Declaratory Opinion Request.* A request must be limited to a single transaction or occurrence.

Source: *Miss. Code Ann.* § 25-43-2.103(2)(a)

Rule 3.4 *How to Submit Requests*. When a person with substantial interest, as required by Section 25-43-2.103 of the Administrative Procedures Act, requests a declaratory opinion, the requestor must submit a printed, typewritten, or legibly handwritten request in accordance with the following:

- A. Each request must be submitted on 8-1/2" x 11" white paper.
- B. The request may be in the form of a letter addressed to the Mississippi Public Broadcasting or in the form of a pleading as if filed with a court.
- C. Each request must include the full name, telephone numbers, and mailing address of the requestor(s).
- D. All requests shall be signed by the person filing the request, unless represented by an attorney, in which case the attorney may sign the request.
- E. Each request must clearly state that it is a request for a declaratory opinion.

Source: *Miss. Code Ann.* § 25-43-2.103(2)(a)

Rule 3.5 *Signature Attestation*. Any party who signs the request shall attest that the request complies with the requirements set forth in these rules, including but not limited to a full, complete, and accurate statement of relevant facts and that there are no related proceedings pending before any agency, administrative, or judicial tribunal.

Source: *Miss. Code Ann.* § 25-43-2.103(2)(a)

Rule 3.6 *Request Content Requirements*. Each request must contain the following:

- A. A clear identification of the statute, rule, or order at issue;
- B. The question for the declaratory opinion;
- C. A clear and concise statement of all facts relevant to the question presented;
- D. The identity of all other known persons involved in or impacted by the facts giving rise to the request including their relationship to the facts, and their name, mailing address, and telephone number; and
- E. A statement sufficient to show that the requestor has a substantial interest in the subject matter of the request.

Source: *Miss. Code Ann.* § 25-43-2.103(2)(a)

Rule 3.7 *Reasons for Refusal of Declaratory Opinions Request*. Mississippi Public Broadcasting may, for good cause, refuse to issue a declaratory opinion. The circumstances in which declaratory opinions will not be issued include, but are not necessarily limited to:

- A. The matter is outside the primary jurisdiction of the Mississippi Public Broadcasting;
- B. Lack of clarity concerning the question presented;
- C. There is pending or anticipated litigation, administrative action or anticipated administrative action, or other adjudication which may either answer the question presented by the request or otherwise make an answer unnecessary;
- D. The statute, rule, or order on which a declaratory opinion is sought is clear

- and not in need of interpretation to answer the question presented by the request;
- E. The facts presented in the request are not sufficient to answer the question presented;
 - F. The request fails to contain information required by these rules or the requestor failed to follow the procedure set forth in these rules;
 - G. The request seeks to resolve issues which have become moot or are abstract or hypothetical such that the requestor is not substantially affected by the rule, statute, or order on which a declaratory opinion is sought;
 - H. No controversy exists or is certain to arise which raises a question concerning the application of the statute, rule, or order;
 - I. The question presented by the request concerns the legal validity of a statute, rule, or order;
 - J. The request is not based upon facts calculated to aid in the planning of future conduct, but is, instead, based on past conduct in an effort to establish the effect of that conduct;
 - K. No clear answer is determinable;
 - L. The question presented by the request involves the application of a criminal statute or sets forth facts which may constitute a crime;
 - M. The answer to the question presented would require the disclosure of information which is privileged or otherwise protected by law from disclosure;
 - N. The question is currently the subject of an Attorney General's opinion request;
 - O. The question has been answered by an Attorney General's opinion;
 - P. One or more requestors have standing to seek an Attorney General's opinion on the proffered question;
 - Q. A similar request is pending before this agency, or any other agency, or a proceeding is pending on the same subject matter before any agency, administrative or judicial tribunal, or where such an opinion would constitute the unauthorized practice of law; or
 - R. The question involves eligibility for a license, permit, certificate or other approval by Mississippi Public Broadcasting or some other agency and there is a statutory or regulatory application process by which eligibility for said license, permit, or certificate or other approval may be determined.

Source: *Miss. Code Ann.* § 25-43-2.103(3)(c)

Rule 3.8 Agency Response. Within forty-five (45) days after the receipt of a request for a declaratory opinion which complies with the requirements of these rules, Mississippi Public Broadcasting shall, in writing:

- A. Issue an opinion declaring the applicability of the statute, rule, or order to the specified circumstances;
- B. Agree to issue a declaratory opinion by a specified time but no later than ninety (90) days after receipt of the written request; or
- C. Decline to issue a declaratory opinion, stating the reasons for its action.

- D. The forty-five (45) day period shall begin on the first business day after which the request is received by Mississippi Public Broadcasting.

Source: *Miss. Code Ann.* § 25-43-2.103(3)

Rule 3.9 Availability of Declaratory Opinions and Requests for Opinions. Declaratory opinions and requests for declaratory opinions shall be available for public inspection and copying at the expense of the viewer during normal business hours. All declaratory opinions and requests shall be indexed by name, subject, and date of issue. Declaratory opinions and requests which contain information which is confidential or exempt from disclosure under the Mississippi Public Records Act or other laws shall be exempt from this requirement and shall remain confidential.

Source: *Miss. Code Ann.* § 25-43-2.103(5)(c)